

INSTRUCTIONS FOR THE PREPARATION OF
CHAPTER 12
STANDING TRUSTEE ANNUAL SUMMARY BUDGET REQUEST

I. Introduction

These instructions relate to the preparation of standing trustee upcoming budget estimates. The various policies with budgetary impact are covered, as is guidance on the classification of expenditures from trustee office expense accounts.

II. Responsibilities and Timetables

A. Standing Trustees The standing trustee will prepare all budget estimates in final form for submission to the United States Trustee by October 1 of each year.

B. United States Trustee The United States Trustee will review the standing trustee's budget estimates, provide comments, and indicate review by signing the budget requests along with any necessary modifications for their submission of the data to the Assistant Director for Review and Oversight by November 15 of each year. The standing trustee's yearly budget (including new or revised position descriptions and a statement describing any changes or corrections to the questionnaire for sensitive positions (SF-86)) must be accompanied by a memorandum from the United States Trustee recommending the upcoming annual percentage fee and compensation level. Evaluations should be sent to the Assistant Director by December 1.

C. Executive Office for U.S. Trustees The Executive Office will issue approved standing trustee compensation levels and any changes in percentage fees by December 31 of each year. Requests for Orders Fixing Compensation and Percentage Fee will not be processed until the budgets are reviewed by the United States Trustee.

III. Standards to be Used in Preparing Estimates

The standing trustee should use the most recent annual report for the actual-year data requested in the budget forms. Accounting classifications may need to be modified to capture data in the requested level of detail and in the categories of expense used throughout the submission.

You may find that the amount of detail required for an expense in the Supporting Estimates (Exhibit II), Detail of Personnel Expense (Exhibit III), and the Allocated Expenses (Exhibit IV) is greater than the space available on the form. For those expenses, expand the space.

Current-year data should be based on expenses reported in the monthly reports of expenditures. All amounts should be rounded to the nearest dollar.

Exhibit I. Summary of Necessary Expenses

This exhibit provides a breakdown of expense categories which are explained further below. Because most of the categories are used to prepare annual reports, the requested data should be available from standing trustee financial records. Where the classification of an expense could reasonably fall in more than one category, consistency in classification from year to year is more important than the category selected. If a classification is changed, please footnote.

Expense Classifications for Exhibits I and II. The following guidance is provided for preparing cost figures for the trustee's actual and necessary expenses.

Item 1. *Employee Expenses: Charges for regular salaries and wages, employer's contributions (social security, unemployment, etc.), overtime, bonuses, and cost of benefits provided to employees.

Item 2. *Office Rent: Charges for rental of office space, conference rooms, garage space, and storage space. Off-site storage cost should be broken out separately. If operation moved or is moving in mid-year, use both rates and both square footage amounts. If utilities are included in rental cost and a break-out is available, please provide.

Item 3. *Utilities: Self-explanatory.

Item 4. *Bookkeeping and Accounting Services: Charges incurred for all outside bookkeeping and accounting necessary for the operation of standing trustee office, including charges for the preparation of payroll, payroll taxes, annual reports, tax returns for trust accounts, and reconciliation of bank accounts.

Item 5. *Computer Services: Charges for services for the development and modification of software systems, data preparation and conversion, consulting, research and development, and use of proprietary programs, including initial processing

fees charged by a computer firm. Includes software maintenance charges. This item does not include training or supplies.

Item 6. Audit Services: Charges incurred for services of any independent audit firms.

Item 7. *Consulting Services: Charges incurred under contract with individuals for services as attorneys, accountants and other professionals. (This does not authorize payment of expenses incurred for the defense or settlement of claims made or actions brought against the trustee personally.)

Item 8. Telephone: Charges for local phone service and/or long distance service.

Item 9. Postage: All postal charges, including parcel post, express mail, and rental of post office boxes.

Item 10. Office Supplies: Charges incurred for pencils, paper, calendar pads, standard forms, printed forms, envelopes, photocopying paper and supplies, computer-related supplies, other office supplies, and property of little monetary value such as desk trays and pen sets. Includes rentals of safety deposit boxes.

Item 11. *Bond Premiums: Fees for premiums on surety bonds, including any premiums paid to bond an employee.

Item 12. Clerks Fees: Do not include any fees that are provided to be paid under the plan.

Item 13. Dues to Professional Organizations: Effective January 1, 1997, dues or membership fees for professional organizations are not allowed expenses.

Item 14. *Publications and On-Line Services: Charges for subscriptions to and copies of bankruptcy-related journals and periodicals, books and directories in the standing trustee's library, and on-line services. The cost of textbooks for training are excluded.

Item 15. *Insurance (other than employee benefits): Charges for insurance to protect assets of the office of the standing trustee or employees (such as errors and omissions, fire, theft, and accidental injury to property or third persons). Includes cost of workers compensation insurance.

Item 16. Training Expenses: Charges for tuition, registration, textbooks, supplies, air fare, mileage, meals, and other costs incurred as related to training activities directly associated

with the duties of the standing trustee or employee.

Effective January 1, 1998, if training expenses are no more than one percent of the fiscal year operating expense fund or \$5,000, whichever is greater, supporting detail is not required until the trustee submits the annual report. Pre-approval of training expenses is no longer required, which affords the standing trustee more management flexibility.

Item 17. *Maintenance and Service Agreements: Charges incurred for the repair and maintenance, or service agreements covering such repair and maintenance, of the office suite and office equipment, including all office machines and furnishings, and including charges for custodial services when not included in the basic lease agreement.

Item 18. Photocopy Services and Transcripts: Self-explanatory.

Item 19. *Travel: All travel charges except for travel related to training, which should be included in Item 16.

Item 20. *Equipment/Furniture Rental: Charges for the use of equipment owned by another, including copying machines, audio and visual aid equipment, rental of computer systems and software, printers, desks, tables, chairs, typewriters, calculators/bookkeeping machines, mailing machines, postage meters, and file cabinets. Total rent payments may not exceed the cost of purchase.

Item 21. *Equipment/Furniture Purchases: Charges for purchase of movable furniture, fittings, and fixtures; including desks, tables, chairs, typewriters, calculators and adding/bookkeeping machines, computers, printers, telephone equipment, and file cabinets, and including charges for services in connection with shipping and installation when performed under contract. All equipment/furniture purchased from Chapter 12 funds remain the possession of the office of the standing trustee, and are to be used for the administration of all Chapter 12 cases by the trustee and any successor trustee.

Item 22. Leasehold Improvements: Charges incurred for space adjustments (including partitioning), alterations, and improvements to building or office suite as approved by the United States Trustee.

Item 23. *All Other Expenses: All expenses not otherwise classified. If several expenses are included, provide a breakdown of the miscellaneous expenses.

Exhibit II. Yearly Supporting Estimates

Several categories of expense on Exhibit I are asterisked to indicate that supporting detail is needed to substantiate the total expense. The supporting details are to be provided in Exhibit II, according to the following guidelines:

The expenses itemized in the Yearly Supporting Estimates should agree with the total figures entered in the same categories of the Summary of Necessary Expenses Exhibit (Exhibit I).

All expense items should be listed within the categories requested in the Yearly Supporting Estimates Exhibit. If the number of entries exceeds the number of lines provided, then additional lines should be inserted before proceeding to the next category.

Exhibit III. Detail of Personnel Expense

The Detail of Personnel Expense (Exhibit III) is the supporting material needed for Item 1 of Exhibit I. To assist in the United States Trustee's review of this exhibit, the list of standing trustee employees should be prepared in descending order (with highest-paid employees listed first).

For each employee, provide individual data on salary, overtime pay, bonuses, benefits, average number of hours worked per week, and hourly wage (both the wage at the beginning of the calendar year and the one at the end of the calendar year). Bonus amounts for the upcoming year are probably not as yet apportioned to individuals. List total dollars on the summary page at the end of the Exhibit. Position descriptions itemizing all of the duties performed for any positions that have changed or been added must accompany Exhibit III. Four sample blocks are provided in the Exhibit. If more are needed, they should be repeated in the same format on supplemental pages. Note that the trustee is not an employee and, under the UST system, payroll taxes and benefits for the trustee are personal expenses of the trustee; therefore, no line item is provided for the trustee. Identify each employee who is related (by blood or marriage) to the trustee or to another trustee employee and describe the relationship.

Exhibit IV. Allocated Expense Exhibit

List all costs apportioned between the standing trustee and another business entity, e.g., law practice or Chapter 13

operation. Identify the expense item, total cost, cost to the trustee operation, other business entity, allocation percentage, and justification for allocation. The justification for allocation may be square footage, hours worked, number of employees, etc. However, for each separate allocation, approval must be obtained in advance from the United States Trustee. In the actual, full-year, and budget year columns, the total cost and the cost allocated to the standing trustee operation are

entered. An example appears below if time spent is 50% on law practice and 50% on the standing trustee operation:

	CY xx <u>Actual</u>	CY xx <u>Full-Year</u>	CY xx <u>Budget</u>
<u>Item and Justification for Allocation:</u>			
1. Expense Item: Personnel Expenses.			
Total Cost	\$50,000	\$58,000	\$64,000
Cost Allocated to Ch. 12 Oper...	\$25,000	\$29,000	\$32,000
Allocation Percentage (identify other party):			
50% law practice; 50% Ch. 12 operation			
Justification for Allocation:			
Actual time spent on law practice and Chapter 12 operation			

In this example, the justification for allocation is actual time spent by staff on standing trustee's activities. The percentage of time is 50%. The total budgeted cost of personnel is \$64,000, and \$32,000 of the cost is allocated to the standing trustee's expenses. The full-year and budget year columns are prepared with estimates for those years in the same manner that actual previous expenses are shown.

If all allocations are made on the same basis, then only one justification for allocation should be shown. If more than one allocation basis is used, each should be described.

For other exhibits in the budget submission, only the amount allocated to the standing trustee office will be shown.

Exhibit V. Workload Exhibit

The Workload Exhibit is divided into two parts. The first part covers receipts and percentage fees. Receipts reported in Item 1(a) should be net receipts i.e., after refunds to debtors. Disbursements reported in Item (1)(b) should be only those subject to percentage fee. Item 2(a) is the percentage fee needed to cover all expenses itemized in the Summary of Necessary Expenses (Exhibit I), and the trustee's compensation in the upcoming year. (For prior and current year, give average

percentage fee.) In Item 2(b), indicate the percentage fee revenues from 2(a) in each year.

Fees may not be received on payments made directly by debtors to creditors under plans confirmed on or after November 26, 1986, in original United States Trustee districts. This restriction applies in other districts as to plans confirmed after Section 586(e) of Title 28 (as amended) becomes effective in the district.

The second part of the Workload Exhibit examines the Chapter 12 cases assigned to the standing trustee. Instructions below will assist you in completing the caseload portion (Items 3-7 of the exhibit).

3. Cases active, start of period - Enter the number of active cases as of the year indicated.

4. New cases assigned during the year - Enter the number of new cases received. Petitions should be recorded when received, as of the date they are received from the Bankruptcy Court.

5. Adjustments during the year - This section is used to adjust the caseload for changes in the status of active cases:

- a. Cases transferred in (+) - Cases transferred from other trustee offices are added.
- b. Cases converted to Chapter 12 (+) - Cases converted from another chapter are added.
- c. Cases transferred out (-) - Cases transferred from your office to another office are subtracted.
- d. Conversions to another chapter (-) - Cases converted from Chapter 12 to any other chapter are subtracted.
- e. Dismissals (-) - Cases dismissed are subtracted.

6. Cases closed by the Court on completion of the plan or hardship discharge (-) - Enter the number of cases that the Bankruptcy Court has closed on completion of the repayment plan or upon entry of a hardship discharge. Cases closed are subtracted.

7. Cases active, end of period - This represents the total of active cases at the end of the period, arrived at by adding the figures in line items 3 and 4 together, and then adjusting that total for the figures in items 5 and 6. The entry for "Cases

active, end of period" should be carried forward as the number of "Cases active, start of period" for the next year.

Exhibit VI. Bond Calculation

The information for Columns (1) and (2) should be taken from the trustee's records and monthly bank statements for the current year to date with estimates utilized for the months of October, November and December. The amount of the Standing Trustee Bond for the upcoming year will be 110% of the Highest Daily Total Bank Balance listed in Column (4).

Exhibit VII. Computation of Amount Available for Compensation and Operating Reserve

Item 1. The amount to be inserted should be the operating reserve estimated to be on hand at the end of the current year. This figure should equal the estimated expense account balance at the end of the current year.